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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,391	10/22/2001	Matthias Bienmuller	Mo-6704/LeA 34,	1055
157	7590	01/21/2004	EXAMINER	
BAYER POLYMERS LLC 100 BAYER ROAD PITTSBURGH, PA 15205			YOON, TAE H	
			ART UNIT	PAPER NUMBER
			1714	

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/014,391

Applicant(s)

BIENMULLER ET AL. 

Examiner

Tae H Yoon

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: _____

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Improper Markush is recited and an insertion of "the group consisting of" after "selected from" in line 2 is needed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 7-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Idel et al (US 5,231,124).

Idel et al teach the instant molding composition at col. 1, line 46 to col. 2, line 49. At least one of R is taught as a mono alcohol radical containing oxetanyl group for formula I (col. 2, lines 1-2), and the instant graft polymer is taught at col. 8, lines 9-18.

Thus, the instant invention lacks novelty.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as obvious over Idel et al (US 5,231,124) and Magerstedt et al (US 5,726,227).

The instant invention further recites employing 6 to 69 pbw of fillers and/or reinforcing agents or 5 to 25 pbw of flame-proofing additives over Idel et al.

Idel et al also teach employing typical additives such as fillers and reinforcing materials at col. 9, lines 43-48. Polymeric molding compositions containing the instant amount of fillers and reinforcing materials and flame retardant additives are well known in the art as taught by Magerstedt et al, col. 1, lines 36-65. Magerstedt et al also teach oxetanyl group for esters of phosphorous acid at col. 5, lines 41-42.

It would have been obvious to one skilled in the art at the time of invention to utilize the instantly recited amount of fillers and/or reinforcing materials or flame retardant additives in Idel et al with teaching of Magerstedt et al since Idel et al also teach employing typical additives and since such modification is a routine practice as evidenced by Magerstedt et al, or to utilize an ester of phosphorous acid having oxetanyl group of Magerstedt et al in Idel et al since Idel et al teach such substituents.

Claims 1-4, 10-12, and 14-16 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over DE 26 15 341.

DE teaches polyesters stabilized with the instant formula I at pages 1, 2 and 4. Graft polymer of claim 14 is an optional when said claim 14 is combined with claim 2.

Thus, the instant invention lacks novelty.

Claims 1-12 and 14-16 are rejected under 35 U.S.C. 103(a) as obvious over DE 26 15 341 and Magerstedt et al (US 5,726,227).

The instant invention further recites employing other additives over DE.

However, polymeric molding compositions containing the instant additives and amount thereof are well known in the art as taught by Magerstedt et al, col. 1, lines 36-65.

It would have been obvious to one skilled in the art at the time of invention to utilize the instantly recited additives and amount thereof in DE with teaching of Magerstedt et al since DE also teaches employing various additives at page 4 and since such modification is a routine practice as evidenced by Magerstedt et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Tae H Yoon
Primary Examiner
Art Unit 1714

THY/January 9, 2004